

3/4/08

SB

LAW OFFICES OF J. BYRON FLECK
160 West Santa Clara Street, Suite 1100
San Jose, CA 95113-1733
(408) 298-7482
Fax: (408) 297-3360

J. BYRON FLECK

October 24, 2007

Ms. Jennifer Sparacino, City Manager
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

VIA FACSIMILE: (408) 241-6771
and e-mail: Manager@ci.santa-clara.ca.us

Re: Stadium Funding Measure

Dear Ms. Sparacino:

On June 15, 2007, Ms. Karen Hardy and I submitted a ballot proposal for action by the City Council relating to the funding of any proposed football stadium in Santa Clara. Your letter of June 18, 2007 responded that our proposal would be presented for action by the Council on the agenda at the next regularly scheduled council meeting following presentation of the completed Stadium Feasibility Study.

Since submission of our proposal, which contemplated the stadium funding measure being placed on the February 5, 2008 ballot, two significant developments have occurred which necessitate a change in the election date, presuming our request is acted upon favorably by the City Council.

First, the Stadium Feasibility Study process was targeted by the 49ers to be completed by the end of July, 2007. Our most recent information from the City suggests the study will not be presented before December, 2007.

Second, the Guiding Principles, in relevant part, provide that (1) Cedar Fair must agree to and cooperate with any proposed stadium project and, (2) the City requires a written acknowledgment from Cedar Fair stating they will not assert various business interference claims arising from the feasibility study process and/or discussions with the 49ers. As of the date of this letter, it is undisputed that Cedar Fair is on record as opposing the stadium project and no written agreement, which was an express condition precedent to commencing the feasibility study process and/or discussions with the 49ers, has been obtained.

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Because of the developments identified above, we presume that no stadium proposal, as contemplated by the Guiding Principles, can go forward until (1) the written agreement is made with Cedar Fair, (2) Cedar Fair drops its opposition to the stadium and (3) the feasibility study process is complete. If our presumptions are in error in any respect, please notify me at your earliest convenience.

Therefore, we have amended our agenda item request to reflect an election date for any such Stadium Funding Measure from February 5, 2008 to November 4, 2008. Of course, in the event that the feasibility study process is completed, a proposal negotiated, written agreement with Cedar Fair is made, and Cedar Fair reverses its opposition to the stadium, all occurs in time for the matter to be placed on the June 3, 2008 ballot, the Stadium Funding Measure date would be automatically adjusted to the June 3, 2008 election, if the Council so decides.

For good order sake, therefore, we hereby set forth our proposal for Council action with the amendment of the election date only.

1. The Santa Clara City Council commit that any proposal involving the appropriation of any City, City agency, City authority or City Utility monies, property or indebtedness, for the construction and/or operation of a football stadium, be submitted to the votes of Santa Clara for final approval or rejection. This vote shall be binding and not advisory.
2. The Santa Clara City Council direct that the Stadium Funding Measure be placed on the November 4, 2008 general election ballot.

Thank you for your continuing courtesies.

Very truly yours,

J. BYRON FLECK, ESQ.

JBf/get

cc: Mayor
Santa Clara City Council
Notwithmymoney.org members
Santa Clara Plays Fair